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The Honorable,

The Secretary of the Treasury.

Sir:

Your letter of May 22, 1937, is as follows:

"Reference is made to the Preaudit Difference Statement of the Audit Division of your office, dated January 15, 1937, addressed to the Office of the Chief Clerk, Treasury Department (Schedule No. 146), returning without certification travel expense voucher for \$19.45, in favor of Mr. Charles S. Bell, and indicating in addition that the transportation secured by him on transportation requests in the amount of \$13.85 should be collected from him.

"The facts relative to Mr. Bell's trip to Washington and his subsequent return to New Haven at an expense of \$33.30, \$19.45 being paid by him, and \$13.85 representing the value of transportation requests, are not fully set forth in the travel authorization, and for that reason I am submitting supplemental information for consideration in connection with this travel as follows:

"On November 24, 1936, Mr. Bell, Administrative Assistant to the Director of Research and Statistics of this Department, applied for and was granted one and one-half days leave of absence immediately following Thanksgiving Day, which fell on November 25th. In granting the leave of absence, his immediate superior officer did so with full knowledge of the fact that it was Mr. Bell's intention to proceed to New Haven, Conn. Prior to securing approval of his leave, Mr. Bell had so arranged his work that his services would not again be required in Washington prior to the expiration of the leave officially granted him. However, the day following Mr. Bell's departure, an occasion arose which could not have been foreseen by him or by his superior and which was attempted to be handled through the medium of a long distance telephone conversation. In that telephone conversation it developed that the business of the Department could not be satisfactorily transacted in that manner. Accordingly, Mr. Bell was instructed to return to Washington at once, with which instructions he complied.

"In support of disapproval of the expense incurred by Mr. Bell in obeying the aforesaid official orders, your office cites II Comp. Gen. 336 - 3 Comp. Gen. 760. In this connection, the Department desires to point out that since these decisions were rendered, a very material change has taken place with reference to leave of absence for Government employees. The Act of March 4, 1936 / 49 Statute, page 1161 / transformed into a legal right what had theretofore been merely a privilege extended to Government employees.

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"In view of this important change in the law, it occurs to me that the General Accounting Office should not be required to object to the expenditure of appropriated funds in cases in which a Government employee not only has not violated any official orders of the Department, but in obeying such orders has incurred considerable expense and inconvenience, as in this case in which neither the employee nor his superior officer could have foreseen the necessity for his recall to Washington prior to expiration of the leave officially granted to the employee in the exercise of his right to leave of absence.

"It will be appreciated if you will reconsider this matter in the light of the above additional information and have this Department advised as to your decision in the premises."

In decision 16 Comp. Gen. 481, with respect to the effect of the act of March 14, 1936, 49 Stat. 1161, it was stated:

"* * * subject to the right of the head of the department or establishment concerned to fix the time at which the leave may be taken, the taking of the leave is an absolute right of the employee; and there is no requirement or restriction in the law or in the regulations prescribed by the President pursuant to the law as to the place at which the employee may elect to spend his vacation. And while the head of the department or establishment concerned may at any time, when the needs of the service require, terminate the leave and require the employee to return to his regular duty station at his own expense, if instead of having his leave so terminated the employee is directed, while on leave, to perform temporary duty at a place other than his regular duty station and permitted to return to the place where he was on leave to resume his vacation, he is entitled to reimbursement of the authorized expenses of the travel involved because such travel is made necessary by official business rather than by leave of absence. The fact that the place where the employee was on leave is farther from the place where the temporary duty is required than is the employee's regular duty station does not change the status of the travel, because the employee was on leave and at the place where he was as a matter of legal right.* * *"

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Of course if the Government should terminate the employee's leave and require his return to headquarters, the employee would not be entitled to reimbursement for the cost of so returning unless additional expenses were incurred by reason of being required to perform temporary duty en route. However, where the leave is not terminated, the employee is only required to return to headquarters for temporary official business and then permitted to resume his leave status at the place where the leave was interrupted, he may be reimbursed for the expenses of the round-trip to and from headquarters, not in excess of the lowest first class fare by rail.

The voucher in favor of Mr. Bell returned with your letter of July 1, 1937, will be reconsidered in the light of the foregoing and certified for payment in such amounts as may be found due thereon.

Respectfully,

/s/ R. N. Elliott
Acting Comptroller General
of the United States